

Appl. No. 10/028,125
Final Amendment and/or Response
Reply to final Office action of 3 June 2004

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REMARKS / DISCUSSION OF ISSUES

Claims 1-21 are pending in the application.

The applicants respectfully traverse the finality of the current Office action.

The Examiner's attention is requested to MPEP 706.07(a) "Final Rejection, When Proper on Second Action", wherein it is stated:

"Under present practice, second or any subsequent actions on the merits shall be final, *except* where the examiner introduces a new ground of rejection that is neither necessitated by *applicant's amendment of the claims* nor based on information submitted in an *information disclosure statement* filed during the period set forth in 37 CFR 1.97 (c)".

The applicants note that the Examiner has introduced a new ground of rejection, and respectfully maintain that this new ground of rejection was not necessitated by the applicant's prior amendment to the claims; and note that an information disclosure statement has not been filed during the period set forth in 37 CFR 1.97. Therefore, in accordance with MPEP 706.07(a), the finality of this second action is inappropriate.

As noted in the applicants' response of 12 March 2004, the amendments to the claims merely corrected informalities and/or replaced European-style claim phraseology with American-style claim language. For example, the claims were amended to remove descriptors from the preamble, to replace the term "restriction means" with "restrictor", and to replace the article "said" with "the", and so on. These changes had no effect on the original scope of the claims, and thus cannot be said to have necessitated a new ground of rejection.

In response to the first Office action, the applicants traversed the original rejections because the applicants' claims specifically recite a restrictor that applies a restricting action in response to an enabling signal, whereas the cited prior art taught a mechanical restrictor that is released manually. The applicants respectfully maintain that the new grounds of rejection were necessitated by the fact that the cited prior art did not teach the applicants' invention, and not by the applicants' amendment to the claims.

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The applicants respectfully request that the Examiner's withdraw the finality of this Office action.

Claims 4, 5, and 7-9 are amended for non-statutory reasons, to present original dependent claims in independent form. These claims are not narrowed in scope and no new matter is added. Claims 20 and 21 are amended to include the shape-changing limitation of claim 9, which has been determined to be allowable. Entry after final action is proper because no new matter is added and no further searching is required.

The Examiner has indicated that claims 4, 5, and 7-18 would be allowable if rewritten in independent form, including all limitations of the base claim and any intervening claims. Claims 4, 5, 7, 8, and 9 are correspondingly amended herein, and each of the other claims 10-18 are dependent upon these claims. As noted above, the original scope of these claims has not been modified, and no new matter is added.

The Office action rejects claims 1-3, 6, and 19-21 under 35 U.S.C. 102(b) over Remington et al. (USP 4,495,540, hereinafter Remington). The applicants respectfully traverse this rejection.

Claims 20 and 21 include the limitation that the restricting action is provided via a change of shape of the restrictive element. Remington teaches a conventional latching mechanism, and does not teach or suggest a shape-changing restrictive element as claimed in claims 20 and 21.

With regard to claims 1-3, 6, and 19, the applicants respectfully request the Examiner's attention is to MPEP 2131, wherein it is stated:

"The *identical invention* must be shown in as *complete detail* as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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In claim 1, upon which claims 2-3, 6, and 19 depend, the applicants specifically claim a **pocket** that includes a restrictor that prevents the insertion or removal of objects from the pocket.

Remington teaches a briefcase with an electronic lock. The applicants respectfully maintain that a **briefcase** cannot be said to correspond to a **pocket**, as the term pocket is conventionally used, and as used in the applicants' specification. A briefcase is not "identical" to a pocket, and thus the rejection fails to conform to MPEP 2131 as cited above.

The applicants define "pocket" as an item that is "suitable for incorporating in a garment, luggage item, personal accessory, or the like", which is consistent with the conventional use of the term "pocket". The applicants respectfully maintain that a briefcase is not suitable for incorporating in a garment, luggage item, personal accessory, or the like, and thus cannot be said to correspond to the applicants' claimed pocket.

In conventional use, one would not equate "pocket" with "briefcase". If a person with a briefcase were asked to empty the contents of his or her pockets, that person would not, for example, empty his or her briefcase. In like manner, if the person were asked to empty the contents of his or her briefcase, that person would not empty his or her pocket. The applicants respectfully maintain that words in a claim must be given their ordinary meaning, or the meaning provided in the specification, and in both instances, the word "pocket" does not include "briefcase".

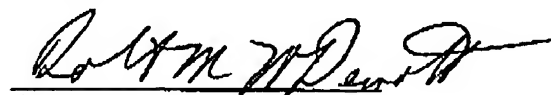
Because Remington fails to teach a restrictor that prevents the insertion or removal of objects from a pocket, as specifically claimed, the applicants respectfully request the Examiner's reconsideration of the rejection of claims 1-3, 6, and 19 under 35 U.S.C. 102(b) over Remington.

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In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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